

**STATE OF SOUTH DAKOTA  
DEPARTMENT OF HUMAN SERVICES  
DIVISION OF SERVICE TO THE BLIND AND VISUALLY IMPAIRED**

**Purchase of Services Agreement  
Between**

Media One, Inc.  
3918 S. Western Ave.  
Sioux Falls, SD 57105-6513  
Referred to as Provider

State of South Dakota  
Department of Human Services  
Division of  
Service to the Blind and Visually Impaired  
Hillsview Plaza, East Highway 34  
c/o 500 East Capitol  
Pierre, SD 57501-5007  
Referred to as State

1. The Provider's federal employer identification number is 46-0325212.
2. This is a vendor-type contractual agreement for procurement of goods or services. While performing services hereunder, Provider is an independent contractor and not an officer, agent, or employee of the State of South Dakota.
3. **DESCRIPTIONS, METHODS AND LOCATIONS OF SERVICES:**

This agreement is made to procure design and development of media for the purpose of conducting an outreach campaign on behalf of Service to the Blind and Visually Impaired (SBVI).

The media developed for the outreach campaign will be for the purpose of educating citizens of South Dakota about the employment potential of skilled individuals with vision loss and blindness. The campaign will explain to citizens of South Dakota, with emphasis placed on employers, that people with vision loss who have experienced vision rehabilitation services can be excellent candidates for employment, and are capable of successful employment and living independently.

The Provider will analyze existing information on individuals with vision loss who have experienced successful employment due to vocational rehabilitation. Analysis will include key shareholders and collaboration with SBVI to develop effective strategies to reach the intended populations.

The Provider will work collaboratively with SBVI staff on creative development including but not limited to the following: advertising concepts, messages, themes, slogans, design of advertising and publication layouts, production of television and radio ads from concept

through storyboard to final production, copywriting for print, radio, television, and digital media, a high quality digital photo collection (South Dakota specific), design of promotional items, and web advertising. The Provider will be required to build on and use existing campaign resources and materials from SBVI and other national and state resources.

The campaign plan will include recommendations for appropriate and cost-effective placement of the ads, announcements and other media following approval from SBVI.

The Provider will develop materials targeting the following populations:

- A. Employers to educate on the capabilities of individuals of working age (16 and older) with blindness, low vision or some type of eye disease where prescription glasses do not correct the vision.
- B. Individuals which represent the diverse and rural cultures of South Dakota including Native American populations, farmers, ranchers, business men and women, laborers and technicians.
- C. Eye care and other professionals who have contact with individuals with vision loss.

The Provider will create the following materials to be utilized by SBVI:

- A. Radio and Television Ads to educate citizens of South Dakota about the importance of vision rehabilitation and the employability of people with vision loss.
- B. Media Outreach – this will include expanded outreach using a variety of ways to inform the target populations to include developing story line ideas and providing guidance on ways to leverage existing opportunities.
- C. Promotional Campaign Materials – This would include an expanded effort in developing printed materials such as flyers/brochures, fact sheets, print ads, posters and other promotion items deemed necessary.

The Provider will provide either the original or reproducible copies in quantities and formats satisfactory to the State of all creative and marketing communications materials, technical data, evaluations, reports and other work products within 30 days of final State approval.

The Provider will consider all reports, recommendations, documents, drawings, plans specifications, technical data and information, copyrights, or other products produced as a result of the services rendered under the agreement the sole property of the State, except for photography under previous copyrights. Provider use of these elements must be approved in writing by the State of South Dakota prior to use.

- D. The Provider will develop a marketing analysis report for SBVI to review the outreach campaign efforts.
- E. Other facets of a media campaign as deemed appropriate.
- F. The Provider may be asked to provide periodic written reports related to specific projects throughout the agreement period.

4. PERIOD OF PERFORMANCE:

This agreement shall be effective as of June 1, 2010 and shall end on May 31, 2011, unless sooner terminated pursuant to the terms hereof.

5. BASIS OF AGREEMENT AMOUNTS:

The Provider will submit in writing proposed costs per project to the State and obtain prior approval for, unless otherwise agreed upon in writing by the State. Provider expenses related to professional services, travel and other charges must not exceed 20% of the total budget.

The total amount of this agreement will not exceed \$75,000.

6. METHOD AND SOURCE OF PROVIDER PAYMENT:

Provider agrees to submit an initial bill for services within 30 days following the end of the month in which services were provided. If the Provider cannot submit a bill within the 30-day timeframe, a written request for an extension of time must be provided to the State. If a bill has not been received by the State, the State reserves the right to refuse payment. Final billing for contracts ending May 31, 2011 must be received by the State by June 3, 2011.

An exception to this is when a Provider is waiting for program/funding eligibility determination and billing cannot be made within 30 days. Valid adjustments and/or voiding of claims can continue to occur past the 30-day timeframe.

7. TECHNICAL ASSISTANCE:

The State agrees to provide technical assistance regarding Department of Human Services' rules, regulations and policies to the Provider and to assist in the correction of problem areas identified by the State's monitoring activities.

8. LICENSING AND STANDARD COMPLIANCE:

The Provider agrees to comply in full with all licensing and other standards required by Federal, State, County, City or Tribal statute, regulation or ordinance in which the service and/or care is provided for the duration of this agreement. Liability resulting from noncompliance with licensing and other standards required by Federal, State, County, City

or Tribal statute, regulation or ordinance or through the Provider's failure to ensure the safety of all individuals served is assumed entirely by the Provider.

**9. ASSURANCE REQUIREMENTS:**

The Provider agrees to abide by all applicable provisions of the following assurances: Lobbying Activity, Debarment and Suspension, Drug-Free Workplace, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, Age Discrimination Act of 1975, Americans with Disabilities Act of 1990, Health Insurance Portability and Accountability Act (HIPAA) of 1996, Charitable Choice Provisions and Regulations, Deficit Reduction Act of 2005, and American Recovery and Reinvestment Act of 2009 as applicable.

**10. RETENTION AND INSPECTION OF RECORDS:**

The Provider agrees to maintain or supervise the maintenance of records necessary for the proper and efficient operation of the program, including records and documents regarding applications, determination of eligibility (when applicable), the provision of services, administrative costs, statistical, fiscal, other records, and information necessary for reporting and accountability required by the State. The Provider shall retain such records for six years following termination of the agreement. If such records are under pending audit, the Provider agrees to hold such records for a longer period upon notification from the State. The State, through any authorized representative, will have access to and the right to examine and copy all records, books, papers or documents related to services rendered under this agreement.

All payments to the Provider by the State are subject to site review and audit as prescribed and carried out by the State. Any over payment of this agreement shall be returned to the State within thirty days after written notification to the Provider.

**11. AUDIT REQUIREMENTS:**

If the total of all Department of Human Service funding is greater than \$500,000 during the Provider's fiscal year, the Provider agrees to submit to the State a copy of an annual entity-wide, independent financial audit. The audit shall be completed and filed with the Department of Human Services by the end of the fourth month following the end of the fiscal year being audited. The audit should be sent to:

Department of Human Services  
Provider Reimbursements and Grants  
3800 East Highway 34  
c/o 500 East Capitol  
Pierre, SD 57501

Audits conducted in accordance with this provision shall contain, as part of the supplementary information, a cost report as outlined by the Department of Human Services to include Schedule A, Schedule B, Attachment A, and Attachment B. Attachment I shall

be submitted annually and directly to the Department of Human Services within the same time frame and is not considered part of the audit.

If federal funds of \$500,000 or more have been received by the Provider the audit shall be conducted in accordance with OMB Circular A-133 by an auditor approved by the Auditor General to perform the audit. On continuing audit engagements, the Auditor General's approval should be obtained annually. Audits shall be completed and filed with the Department of Legislative Audit by the end of the fourth month following the end of the fiscal year being audited. For an A-133 audit, approval must be obtained by forwarding a copy of the audit engagement letter to:

Department of Legislative Audit  
A-133 Coordinator  
427 South Chapelle  
% 500 East Capitol  
Pierre, SD 57501-5070

For either an entity-wide, independent financial audit or an A-133 audit, the Provider assures resolution of all interim audit findings. The Provider shall facilitate and aid any such reviews, examinations, agreed upon procedures etc., the Department or its' contractor(s) may perform.

Failure to complete audit(s) as required will result in the disallowance of audit costs as direct or indirect charges to programs. Additionally, a percentage of awards may be withheld, overhead costs may be disallowed, and/or awards may be suspended, until the audit is completely satisfied.

## 12. TERMINATION:

This agreement may be terminated by either party hereto upon thirty (30) days written notice, and may be terminated by the State for cause at any time, with or without notice. On termination of this agreement all accounts and payments shall be processed according to financial arrangements set forth herein for services rendered to date of termination.

## 13. FUNDING:

This agreement depends upon the continued availability of appropriated funds and expenditure authority from the Legislature for this purpose. If for any reason the Legislature fails to appropriate funds or grant expenditure authority, or funds become unavailable by operation of law or federal funds reduction, this agreement will be terminated by the State. Termination for any of these reasons is not a default by the State nor does it give rise to a claim against the State.

**14. AMENDMENTS:**

This agreement may not be assigned without the express prior written consent of the State. This agreement may not be amended except in writing, which writing shall be expressly identified as a part hereof, and be signed by an authorized representative of each of the parties hereto.

**15. CONTROLLING LAW:**

This agreement shall be governed by and construed in accordance with the laws of the State of South Dakota. Any lawsuit pertaining to or affecting this agreement shall be venued in Circuit Court, Sixth Judicial Circuit, and Hughes County, South Dakota.

**16. SUPERCESSION:**

All other prior discussions, communications and representations concerning the subject matter of this agreement are superseded by the terms of this agreement, and except as specifically provided herein, this agreement constitutes the entire agreement with respect to the subject matter hereof.

**17. SEVERABILITY:**

In the event that any provision of this agreement shall be held unenforceable or invalid by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

**18. NOTICE:**

Any notice or other communication required under this agreement shall be in writing and sent to the address set forth above. Notices shall be given by and to the Division being contracted with on behalf of the State, and by the Provider, or such authorized designees as either party may from time to time designate in writing. Notices or communications to or between the parties shall be deemed to have been delivered when mailed by first class mail, provided that notice of default or termination shall be sent by registered or certified mail, or, if personally delivered, when received by such party.

**19. SUBCONTRACTORS:**

Provider will include provisions in its subcontracts requiring its subcontractors to comply with the applicable provisions of this agreement, to indemnify the State, and to provide insurance coverage for the benefit of the State in a manner consistent with this agreement. Provider will cause its subcontractors, agents, and employees to comply with applicable federal, state and local laws, regulations, ordinances, guidelines, permits and requirements and will adopt such review and inspection procedures as are necessary to assure such compliance.

20. **HOLD HARMLESS:**

The Provider agrees to hold harmless and indemnify the State of South Dakota, its officers, agents and employees, from and against any and all actions, suits, damages, liability or other proceedings which may arise as the result of performing services hereunder. This section does not require the Provider to be responsible for or defend against claims or damages arising solely from errors or omissions of the State, its officers, agents or employees.

21. **INSURANCE:**

a. **Commercial General Liability Insurance:**

Provider shall maintain occurrence-based commercial general liability insurance or an equivalent form with a limit of not less than \$ 1,000,000 for each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two times the occurrence limit.

b. **Business Automobile Liability Insurance:**

Provider shall maintain business automobile liability insurance or an equivalent form with a limit of not less than \$ 500,000 for each accident. Such insurance shall include coverage for owned, hired, and non-owned vehicles.

c. **Workers' Compensation Insurance:**


Provider shall procure and maintain workers' compensation and employers' liability insurance as required by South Dakota law.


d. **Professional Liability Insurance:**

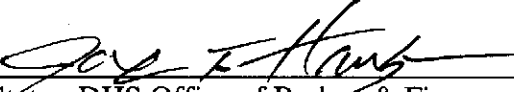
Provider agrees to procure and maintain professional liability insurance with a limit not less than \$ N/A.


Before beginning work under this agreement, Provider shall furnish the State with properly executed Certificates of Insurance which shall clearly evidence all insurance required in this agreement and which provide that such insurance may not be canceled except on 30 days prior written notice to the State. Provider shall furnish copies of insurance policies if requested by the State.

22. AUTHORIZED SIGNATURES: In witness hereto, the parties signify their agreement by affixing their signatures hereto.

 6/2/10  
Provider Signature Date

 5/20/10  
State - DHS Division Director Date

 5/26/2010  
State - DHS Office of Budget & Finance Date

 5/27/2010  
State - DHS Office of the Secretary Date

CONTRACT DESCRIPTION CODE: 705

State Agency Coding:

CFDA Number: NA \_\_\_\_\_

Company	<u>2000</u>	_____	_____	_____
Account	<u>52R411099</u>	_____	_____	_____
Center Req	<u>1970010</u>	_____	_____	_____
Center User	<u>142</u>	_____	_____	_____
Dollar Total	<u>\$75,000</u>	_____	_____	_____
SVC PO Code	<u>7008</u>	_____	_____	_____

DHS Program Contact Person Sandy Neyhart  
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